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6 Attorneys for Creditor  
Sterling Savings Bank, successor in interest by merger to  
7 Sonoma National Bank

8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 In Re:

12 BENYAM MULUGETA and PAULA R.  
13 MULUGETA,

14 Debtors.

Case No. 09-51900  
Chapter 11  
R.S. No. RKN/001

**Date: April 22, 2009**

**Time: 10:00 a.m.**

**Location: 280 South First St., San Jose, CA**  
**Courtroom: 3020**

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17 **DECLARATION OF CHRISTY SOMERS IN SUPPORT OF STERLING SAVINGS**  
18 **BANK'S MOTION FOR RELIEF FROM STAY**

19 I, CHRISTY SOMERS, declare as follows:

20 1. I am a Special Assets Specialist with Sterling Savings Bank (hereinafter  
21 "Sterling"), successor in interest by merger to Sonoma National Bank. I have personal knowledge  
22 of the facts set forth herein and, if called upon as a witness, could and would competently testify  
23 thereto.

24 2. Sterling is the holder of a Promissory Note payable by the Debtors in the  
25 amount of \$1,700,000 (the "Promissory Note"). (*A true and correct copy of the Promissory Note is*  
26 *attached hereto as Exhibit "A" and incorporated herein by this reference as though fully set forth.*)

27 3. The Promissory Note is secured with a First Deed of Trust with Assignment of  
28 Rents against the Debtors' real property located at 353 Grand Avenue, Oakland, CA (the "Deed of

Trust"). *(A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B" and incorporated herein by this reference as though fully set forth.)* The Property is a mixed use commercial/residential property near Lake Merrit in Oakland, which generates rental income that is subject to Sterling's Assignment of Rents.

4. The Debtors have failed to make a single payment owing to Sterling under the Promissory Note since May of 2008. As of March 31, 2009, approximately \$1,787,414.02 is currently due and owing to Sterling on under the Promissory Note, as follows:

Principal Balance: \$ 1,656,771.46

Interest to 03/31/09: \$ 105,849.05

Late Charges: \$ 9,083.58

Collection Costs to date: \$ 15,709.93  
(Includes legal fees,  
foreclosure fees, appraisal  
fees and force placed  
insurance premiums)

**TOTAL AMOUNT DUE: \$ 1,787,414.02**

5. On November 12, 2008, Sterling recorded its Notice of Default and Election to Sell Under Deed of Trust. In connection therewith, Sterling obtained a Trustee Sale Guarantee. *(A true and correct copy of said Trustee Sale Guarantee is attached hereto as Exhibit "C" and incorporated herein by this reference as though fully set forth.)* That Trustee Sale Guarantee reflects the following: A second deed of trust encumbering the Property secures an additional \$1,000,000 payable to CMR Mortgage Fund II, LLC; and a third deed of trust encumbering the Grand Property secures an additional \$183,000 payable to Tomoko Nakama.

6. Delinquent property taxes for the Property totaling approximately \$65,298.97 are also due and payable.

7. Additionally, several thousand dollars in liens recorded by the City of Oakland for code violations and nuisance abatement are also recorded against the Property.

8. Thus, more than \$3,035,712.00 of secured debt encumbers the Property.

9. In December of 2008, Sterling obtained an appraisal of the Property valuing same at \$1,960,000 "as is." *(True and correct copies of relevant portions of said Appraisal are*

1 *attached hereto as Exhibit "D" and incorporated herein by this reference as though fully set forth.)*

2           10. Sterling recorded its Notice of Trustee's Sale on March 3, 2009, therein setting the  
3 trustee's sale of the Property for March 24, 2009.

4           11. Sterling did not, and does not, consent to the use of its cash collateral for any  
5 purpose.

6           I declare, under penalty of perjury under the laws of the State of California, that the  
7 foregoing is true and correct. Executed this 3<sup>rd</sup> day of April, 2009, at Santa Rosa, California.

8  
9 By: /s/ Christy Somers  
CHRISTY SOMERS